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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/584,086	02/26/2007	Jochen Strenkert	095309.57899US	1687

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EXAMINER

HOLMES, JUSTIN

ART UNIT	PAPER NUMBER
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3655

MAIL DATE	DELIVERY MODE
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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/584,086	Applicant(s) STRENKERT, JOCHEN	
	Examiner JUSTIN HOLMES	Art Unit 3655	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/2/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The Examiner acknowledges receipt of the Preliminary Amendment filed on June 22, 2006.
2. The substitute specification and abstract are accepted by the Examiner.
3. Claims 1-10 have been cancelled and claims 11-30 are currently pending.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 11-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
6. Claim 11 is indefinite in line 4 it is stated that "a differential value" is adapted, and later in the claim it is stated that the acceleration mode exceeds the driving speed in the normal mode on the basis of the vehicle acceleration. It is unclear as to what the differential value refers. For the purposes of continued examination the differential value as broadly recited in the claims is interpreted as a correction factor in the acceleration mode.
7. Claim 22 is indefinite since in line 1 of the claim it is depending on now cancelled claim 1. For the purposes of continued examination, the claim will be examined for this Official Action as depending on claim 11. Appropriate correction is required.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 11-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,032,096 to Takahashi in view of U.S. Patent No. 5,754,428 to Ishikawa.

The Takahashi patent teaches an automatic transmission having at least one normal mode and an acceleration mode. The acceleration mode drives at a speed higher than that of the normal mode. See Fig. 3 where it is shown that in the acceleration mode the throttle valve opening is higher, therefore the speed of vehicle will be higher for the given accelerator pedal angle. See column 6, lines 30-42. However, the Takahashi patent lacks a teaching that the unit is operative to adapt a differential value.

The Ishikawa patent teaches a CVT transmission (column 4, lines 29-35) having a controller 110 that is attached to a pedal sensor 166 for detecting pedal angle (column 8 lines 17-20). There is an acceleration mode and a normal mode in that a map is used when a target acceleration value is needed. Further, the cruising speed in the normal mode is lower than in the acceleration mode. See column 10 lines, 8-34. The controller 110 sets a target acceleration speed based on the pedal angle and then uses a

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differential value that is a correction factor ΔG that is used on the basis of the motor vehicle acceleration. See column 11, lines 15-50.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Takahashi patent to include the correction factor or differential value as taught by the Ishikawa patent in order to provide a more controlled and accurate acceleration of the vehicle. See column 2, lines 53-59 of the Ishikawa patent.

Regarding claims 12, 14, 16, 19, 21, 26 and 27, the unit is operative to adjust the differential value at a rate depending on current acceleration. See column 11, lines 25-30 of the Ishikawa patent.

Regarding claims 13, 15, 17, 18, 20 and 28-30, the unit is operative to initiate a changeover from the normal mode into the acceleration mode depending on a rate of change of a gas pedal angle. See column 5, lines 1-16 of the Takahashi patent.

Regarding claims 22-24, the unit is operative to reset the differential value to an initial value upon exceeding a threshold value. The threshold value as broadly recited in the claims is defined as G_{on} , where it is stated that the ΔG is recalculated using the G_{on} depending on the acceleration, therefore the "threshold value" is the current ΔG that is determined based on Fig. 7 which in turn is reset due to the original driver's pedal angle and the change over from normal to acceleration mode. See column 11, lines 22-38 of the Ishikawa patent.

Regarding claim 25, the unit is operative to limit the driving speed on the basis of a velocity in a limiting step. See column 10 lines 9-34 of the Ishikawa patent.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. 4,833,612 to Okuno et al.; U.S. Patent No. 5,131,297 to Yamashita et al.; U.S. Patent No. 5,558,596 to Adachi et al.; U.S. Patent No. 5,983,154 to Morisawa; U.S. Patent No. 6,169,949 to Sato; U.S. Patent No. 6,330,504 to Toukura et al. and U.S. Patent No. 7,306,541 to Ogawa all teach various transmission control systems.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JUSTIN HOLMES whose telephone number is (571)272-3448. The examiner can normally be reached on 8:00am to 4:30pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JUSTIN HOLMES/
Examiner, Art Unit 3655

/Roger L Pang/
Primary Examiner, Art Unit 3655